

APR 22 2005



The Honorable Bill Owens
Governor of Colorado
136 State Capitol
Denver, Colorado 80203-1792

Dear Governor Owens:

It is with pleasure that I respond to the State of Colorado's request for waivers of statutory and regulatory requirements under the Workforce Investment Act (WIA). This action is taken under the Secretary's authority to waive certain requirements of WIA Title I, subtitles B and E and Sections 8-10 of the Wagner-Peyser Act. The following is the disposition of the state's waiver submission (copy enclosed).

Requested Waiver 1: Waiver to permit use of up to 10 percent of local area formula funds in the same manner as statewide funds.

The state is seeking additional flexibility in the use of WIA funds to meet the demands of employers, incumbent workers, people with disabilities, and other customers. The waiver request is written in the format identified in WIA Section 189(i)(4)(B) and 20 CFR 661.420(c) and appears to meet the standard for approval at 20 CFR 661.420(e).

Accordingly, the State of Colorado is granted a waiver of the language that limits the authority to provide the activities identified in WIA Sections 129(b) and 134 to the state. The waiver is approved through June 30, 2007, with an effective date of January 1, 2005. Under the waiver, local areas will be permitted to request the use of up to 10 percent of local area formula allocation funds for adults, dislocated workers and youth to provide statewide employment and training activities identified at WIA Sections 129(b) and 134. The waiver is granted on the condition that the state will continue to meet its responsibilities related to statewide employment and training activities.

Requested Waiver 2: Waiver of performance requirements for a targeted group of WIA participants with disabilities.

The State of Colorado was recently awarded a grant from the Social Security Administration (SSA) to align state resources to improve transition outcomes for youth with disabilities. The state is requesting a waiver of performance requirements at 20 CFR 666.100(a) for targeted SSA grant participants to facilitate their co-enrollment in WIA programs in three local areas. In its submission, the state indicates that a waiver will allow local programs to offer services tailored to the needs of the specified disabled participants without the burden of meeting the WIA performance requirements.

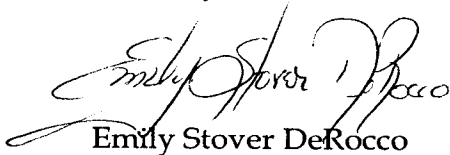
ETA recognizes the state's leadership in the area of workforce services for customers with disabilities. Likewise, we understand the unique challenges that states face in serving this population. However, we generally do not waive provisions related to performance. Performance accountability is one of the key principles of the Workforce Investment Act. The regulations at 20 CFR 661.410(c) indicate that the Department of Labor does not intend to waive "any of the statutory or regulatory provisions essential to the key reform principles except in extremely unusual circumstances where the provision can be demonstrated as impeding reform."

The state's request does not meet this standard. The justification for the waiver provided by the state is that this population has severe and multiple barriers to employment. There is a mechanism in place to address the effect of such barriers on performance without the need for a waiver. Provisions for negotiation and renegotiation of performance levels allow states to consider such factors as the characteristics of participants.

Accordingly, we are not approving the requested waiver. ETA is currently reviewing the use of performance measures as a tool to encourage quality services to all population groups. The concerns raised in the state's waiver submission will be considered as part of this review.

We look forward to continuing our partnership with you and achieving better workforce investment outcomes. We are prepared to entertain other state and local-level waiver requests that you may wish to submit, consistent with the provisions of the WIA statute and regulations.

Sincerely,



Emily Stover DeRocco

Enclosure